

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Harry D. Leinenweber	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	12 C 2633	DATE	5/11/2012
CASE TITLE	Anthony Jackson (M-06206) vs. City of Aurora, et al.		

DOCKET ENTRY TEXT:

Plaintiff's *in forma pauperis* application [3] is denied without prejudice to him submitting a completed application. Additionally, Plaintiff must show cause why his complaint should not be dismissed as untimely. To proceed with this case, Plaintiff must, within 30 days of the date of this order: (1) either prepay the \$350 filing fee or submit a completed *in forma pauperis* application, and (2) submit a pleading demonstrating that his claims are timely. The clerk is directed to send to Plaintiff an *in forma pauperis* application. Plaintiff's failure to both resolve the filing fee issue and submit pleading demonstrating that his claims are not time-barred will result in the dismissal of this case.

■ [For further details see text below.]

Docketing to mail notices.

STATEMENT

Plaintiff Anthony Jackson, an inmate incarcerated at Logan Correctional Center, has filed this 42 U.S.C. § 1983 civil rights action against the City of Aurora, Kane County, and three Aurora police officers. Plaintiff claims that on March 10, 2010, the three officers, after receiving a report of gunshots, unjustifiably stopped Plaintiff, arrested him for firing a gun after he told the officers he had no weapon, and used excessive force during the arrest, during which Plaintiff was thrown against the car and lost a tooth.

Plaintiff seeks to file his complaint *in forma pauperis* ("IFP"); however, his application contains neither a certificate from an authorized officer stating the amount of funds in Plaintiff's prison trust fund account, nor a copy of Plaintiff's trust fund account statement. Under the Prison Litigation Reform Act ("PLRA"), an inmate must pay the full filing fee, which currently is \$350. If unable to prepay the fee, he may seek to proceed IFP to pay the fee in monthly deductions from his prison trust fund account. If an inmate seeks to proceed IFP, he must submit a completed application on this court's form so that the court may assess an initial partial filing fee and direct the trust fund officer to deduct an initial partial fee and future amounts from the inmate's account until the \$350 filing fee is paid. The IFP application must include both a certificate from an authorized officer and "a certified copy of the trust fund account statement . . . for the prisoner for the 6-month period immediately preceding the filing of the complaint." 28 U.S.C. § 1915(a)(2). Both a completed certificate and a trust fund account statement are needed for this court to determine whether Plaintiff qualifies as a pauper and what amount he should pay as the initial partial filing fee. Accordingly, the instant IFP motion is denied without prejudice to Plaintiff submitting a completed application. Plaintiff is given 30 days from the date of this order to comply. His failure to do so will result in the summary dismissal of this case. N.D. Ill. Local Rule 3.3(e).

(CONTINUED)

isk

STATEMENT (continued)

Additionally, preliminary review of the complaint, *see* 28 U.S.C. § 1915A, indicates that the complaint is time-barred. The events giving rise to Plaintiff's claims occurred on March 10, 2010. In Illinois, the statute of limitations period for § 1983 claims is two years. *Jenkins v. Vill. of Maywood*, 506 F.3d 622, 623 (7th Cir. 2007). Plaintiff complaint was filed in April 2012. Although Plaintiff's filing date is close to the expiration of the limitations period, the complaint nonetheless appears untimely on its face. *Walker v. Thompson*, 288 F.3d 1005, 1009-10 (7th Cir. 2002) ("when the existence of a valid affirmative defense is so plain from the face of the complaint that the suit can be regarded as frivolous, the district judge need not wait for an answer before dismissing the suit"). Plaintiff must demonstrate that his complaint is timely before it can proceed.

If Plaintiff wants to proceed with this case, he must, within 30 days of the date of this order: (1) either pay the \$350 filing fee or submit a completed *in forma pauperis* application, and (2) submit a pleading demonstrating that his complaint is timely. Failure to comply with this order within 30 days may be construed as Plaintiff's desire not to proceed with this case and will result in dismissal of this action. The clerk is directed to send to Plaintiff an *in forma pauperis* application, along with a copy of this order.